

# Frankfort Architectural Review Appeals Board

February 13, 2007

Members Present: Charles Booe  
Patti Cross  
Sherron Jackson  
David Garnett

Member Absent: None

There being a quorum, the meeting proceeded with David Garnett chairing the meeting.

A motion was made by Mr. Booe to approve the minutes of the meeting of January 25, 2007. The motion was seconded by Ms. Cross and carried unanimously.

The only item on the agenda was tabled from the January 25, 2007 meeting: In accordance with Article 17.09 of the City of Frankfort Zoning Code, Mr. Edward Wimer is requesting by appeal that the Architectural Review Appeals Board overturn the action taken by the ARB on November 21, 2006 for the property located at 5 Lyons Court.

Mr. Garnett stated the ARB Appeals Board submitted the following ruling:

## Ruling Reversing Action of Architectural Review Board

An application for a certificate of appropriateness to replace existing half round gutters with “modern” seamless gutters for the residential structure located at 5 Lyons Drive, Frankfort, Kentucky was filed with the City of Frankfort, Kentucky, Architectural Review Board (“ARB”) by the property owner.

Following a hearing on the matter, the ARB issued a decision denying the application. The ARB’s denial was based on the staff report submitted by the Office of Planning & Building Codes of the City of Frankfort, Kentucky (“City”); the staff report recommended denial of the request based on Article 17.10 (4) © of the City Zoning District Regulations (“Zoning Regulations”) which states: “Hanging gutters shall be half-round and new downspouts shall be round.”

Petitioner filed a timely appeal of the ARB decision and the matter was properly brought before the Architectural Review Appeals Board pursuant to Section 17.09 of the Zoning Regulations.

Acting in its capacity as a Board of Zoning Adjustment with authority to grant variances for property located within the Special Capital Historic district (within which the subject residential property is located), the ARB's responsibilities as set forth in Section 4.418 of the Zoning Regulations include the review of plans in order to "a) Assure the continuity of architectural styles, building mass and density, as well as the overall character of the area..."

(Emphasis added.)

In addition, Section 4.418 requires the ARB to take into account the following specific requirement: "9 Relationship of architectural details: Predominant details within an area may include cornices ... and other significant design elements ... uncharacteristic architectural detailing shall not be added to existing construction during exterior remodeling."

Evidence presented by the City to the ARB included the results of a survey of seven residences located adjacent to Petitioner's residence or in its immediate area. This survey showed that three of the seven residences had half-round gutters, three had "modern" seamless gutters (of the type sought to be used by Petitioner), and one had a mix of these two styles.

The standard of review used herein is the determination whether the decision by the ARB was supported by substantial evidence.

In the view of the Architectural Review Appeals Board, the evidence presented to the ARB established that the use of half-round gutters in the area (on one-half of the houses surveyed) is not a "predominant" detail of the area, and that the use of "modern" seamless gutters in the area (on the remaining one-half of the houses surveyed) is not an "uncharacteristic architectural detail" in the area.

Accordingly, the Architectural Review Appeals Board finds that the denial by the ARB of Petitioner's request for a certificate of appropriateness to use "modern" seamless gutters was not supported by substantial evidence.

The matter is to be sent back to the ARB with directions to issue the requested Certificate of Appropriateness.

All members concurring.

A motion was made by Mr. Jackson to adopt the above ruling. The motion was seconded by Ms. Cross and carried unanimously.

A motion was made by Ms. Cross to adjourn. The motion was seconded by Mr. Booe and carried unanimously.

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David Garnett, Chair

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Dianna Rogers, Recording  
Secretary